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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/666,790	09/17/2003	Hisashi Tsukamoto	Q137-US8	9005
31815	7590	01/17/2007	EXAMINER	
MARY ELIZABETH BUSH			YUAN, DAH WEI D	
QUALLION LLC				
P.O. BOX 923127				
SYLMAR, CA 91392-3127			ART UNIT	PAPER NUMBER
			1745	

  

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/17/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/666,790	<b>Applicant(s)</b> TSUKAMOTO ET AL.	
	<b>Examiner</b> Dah-Wei D. Yuan	<b>Art Unit</b> 1745	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 December 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 55 and 66-88 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 55 and 66-88 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>See Continuation Sheet</u> . | 6) <input type="checkbox"/> Other: _____  |

Continuation of Attachment(s) 3). Information Disclosure Statement(s) (PTO/SB/08), Paper No(s)/Mail Date  
:09172003,03012004,05112004,07092004.

**ELECTRIC STORAGE BATTERY CONSTRUCTION**  
**AND METHOD OF MANUFACTURE**

Examiner: Yuan      S.N. 10/666,790      Art Unit: 1745      January 8, 2007

***Election/Restrictions***

1. Applicant's election without traverse of Group I-5, claim 55, in Paper filed December 20, 2006 is acknowledged. Claims 1-54,56-65 were canceled. Claims 66-88 were added.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 55,66-71,85,87,88 are rejected under 35 U.S.C. 102(e) as being anticipated by Gartstein et al. (US 2002/0001745 A1).

With respect to claim 55, Gartstein et al. teach an electrical storage battery comprising an case (14) sealed by a first end cap (16) and a second end cap (22), wherein neither the case, the first end cap nor the second end cap has fill hole as shown in Figure 3. The battery further comprises an electrically conductive terminal pin (26) extending through the first end cap, which is electrically insulated from the case. The cathode (32) of the electrode assembly is in electrical communication with the pin, whereas the anode (34) of the electrode assembly is in electrical

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communication with second end cap via a conductive bottom plate (19) (flexible conductive tab).

See paragraphs 55-59,62.

With respect to claims 66,68, Gartstein et al. teach the conductive bottom plate extends from a location adjacent to the case to a second location wherein the plate is electrically connected to the second end cap (22). See Figure 3.

With respect to claim 67, Gartstein et al. teach welds (contacts between the anode and the conductive bottom plate) connect the plate to the second end cap. See Figure 3.

With respect to claim 69, Gartstein et al. teach the second end cap is connected to the plate for a distance that is not longer than the radius shown in the second end cap. See Figure 3.

With respect to claims 70,71, Gartstein et al. teach the electrode assembly has a spirally wound jelly roll structure, which include at least one separator separating the electrodes. See Paragraph 57.

With respect to claim 85, Gartstein et al. teach at least one weld connects the cathode to the pin. See Figure 3.

With respect to claim 87, Gartstein et al. teach the terminal pin is hermetically sealed to the insulting washer or seal (24), which insulates the first end cap. See Paragraph 55.

With respect to claim 88, Gartstein et al. teach the case is electrically conductive. See Paragraph 62.

### ***Double Patenting***

4. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

5. Claims 55,66-88 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 43-45,66-86 of copending Application No. 10/665,687. Although the conflicting claims are not identical, they are not patentably distinct from each other because the conflicting claims in the examined application claim fall entirely within the scope of the copending 10/665,687 application.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dah-Wei D. Yuan whose telephone number is (571) 272-1295. The examiner can normally be reached on Monday-Friday (8:00-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick J. Ryan, can be reached on (571) 272-1292. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Dah-Wei D. Yuan  
January 8, 2007



DAH-WEI YUAN  
PRIMARY EXAMINER